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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,779	07/12/2007	Shinya Fujibayashi	Q111691	7145

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EXAMINER	
DOLLINGER, MICHAEL M	

ART UNIT	PAPER NUMBER
1766	

NOTIFICATION DATE	DELIVERY MODE
02/22/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/594,779	FUJIBAYASHI ET AL.	
	Examiner	Art Unit	
	MIKE DOLLINGER	1766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2011*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *5-7,15-17 and 19-24* is/are pending in the application.

4a) Of the above claim(s) *22-24* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-7,15-17 and 19-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Newly submitted claims 22-24 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The powered resin products of claims 5-7,15-17 and 19-21 may be prepared by a number of different process, either through a wet mixing process, dry mixing at a different temperature, polymerizing both powder B and powder E in the same vessel (and therefor without a step of mixing), etc.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-24 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 6, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinsho et al (US 2003/0125479 A1).

Kinsho discloses resin particles for use as slush molding resin [0001] having a structure such that resin particle (A) composed of resin (a) adheres to the surface of a resin particle (B) composed of a resin (b) [0015]. The resin particle (A) has a volume average particle diameter of 0.01 to 30 μm [0018] and the resin (a) is at least one resin selected from a group including polyurethane and vinyl resin [0024]. The vinyl resin includes copolymers including carboxyl group containing vinyl monomers including (meth)acrylic esters [0040-0041] and hydroxyl group containing vinyl monomers [0048] including hydroxyethyl (meth)acrylate [0049]. The resin (a) has a melting point of over 50℃ and preferably over 80℃ [0126]. However, the resin (a) preferably has a glass transition temperature of up to 300℃ [0123] and a crosslinked structure [0126] which would indicate a melting temperature above 300℃ or possibly no melting temperature at all, respectively. The resin particle (B) has a volume average particle diameter of 0.1 to 300 μm [0018] and the resin (b) is at least one resin selected from a group including polyurethane [0024]. The resin (b) may be the chosen from the same resins as resin (a) [0190] which may be thermoplastic or thermosetting [0034]. When the resin particle is used for slush molding, the melting point of resin (b) is generally 0℃ to 200℃ [0192] and is therefore capable of melting at 200℃. The resin particle for slush molding comprises preferably 0.1 to 50 weight % of resin particle (A) and 50 to 99.9 weight percent of particle (B) [0278]. The disclosed particle (B) reads on the claimed particle (B) and the disclosed particle (A) corresponds to the claimed particle (E). Several

additives may be incorporated into the composition [0265] wherein they may be added after the formation of the resin particles [0266].

Regarding the limitation in claim 5 requiring that the powders (A) and (B) be dry-blended **at room temperature**, this is a product-by-process limitation. The methods by which claimed compositions are created by are not pertinent, unless applicant can show a different product is produced. However, Kinsho discloses a process wherein the aqueous dispersion is dried [0272]. This dried product appears to be identical to the product of applicants' claims. **Furthermore, Kinsho discloses that the particles (A) and (B) may be separated to form a mixture of particles (A) and (B) [0032].**

While Kinsho does not disclose the claimed composition with sufficient specificity to anticipate the claims, the claims are still obvious over the disclosure. If Applicant argues that the claimed embodiments are not disclosed with sufficient specificity and that examiner is picking and choosing with improper hindsight, Examiner notes that mere fact that a reference suggests a multitude of possible combinations does not in and of itself make any one of those combinations less obvious. See *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinsho et al (US 2003/0125479 A1) with further evidence provided by Toyama et al (US 4,686,138).

Claim 16 is rejected for the reasons explained in the previous office action and not repeated here.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinsho et al (US 2003/0125479 A1) in view of Suling et al (US 4,233,424).

Claims 7 and 15 are rejected for the reasons explained in the previous office action and not repeated here.

Response to Arguments

Applicant's arguments filed 01/24/2011 have been fully considered but they are not persuasive.

Applicants argue that Kinsho does not disclosed that claimed resin powder composition because the newly amended claims require that powder B and powder E are dry-blended at room temperature which produces a final mixture containing essentially no particles adhered to one another. Applicants respond to Examiners arguments that the Examples of Applicants specification appear to have particles adhered to each other by opining that the error of particle diameter measurements is too large to support Examiners arguments. Applicants also argue that any hypothetical surface covering rate of the claimed invention would be much lower than Kinsho. Applicants disagree with Examiner's arguments that the claimed powders would have some static charge and cause the same

agglomeration as that of Kinsho. These arguments are not convincing. There are two reasons why the arguments are not convincing: 1) the claim language leaves open the possibility that the powders may be attached to one another and 2) as cited in the amended rejection above the powders (A) and (B) of Kinsho may be separated to form a mixture. Regarding 1), the claims merely limit to a powdered resin composition for slush molding wherein the resin powder (B) and the powder (E) are "dry-blended at room temperature"; this is not specific enough language to require that the two powders are first polymerized and then dry-blended at room temperature to form a mixture with no adherence to one another. The limitation does not exclude the possibility that the powders are prepared together (in one polymerization process perhaps) and then dry blended with something else such as the silica fine powder of claim 16. The claims also leave open the possibility that the powders are surface crosslinked by a crosslinking agent, a common practice in the powder art. Regarding 2), Kinsho discloses that the particles (A) and (B) may be separated to form a mixture of particles (A) and (B) [0032].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MIKE DOLLINGER whose telephone number is (571)270-5464. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/mmd/

/RANDY GULAKOWSKI/
Supervisory Patent Examiner, Art Unit 1766